IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WA.No. 747 of 2007()

APPELLANT/PETITIONER:

P.M.ASHRAF,PROPRIETOR,
KALPAKA CHICKEN AGENCY,
PUTHANATHANI, PUNNATHALA.P.O.

BY ADV. SRI.ARIKKAT VIJAYAN MENON

RESPONDENT/RESPONDENT:

COMMERCIAL TAX OFFICER (A.A),
DEPARTMENT OF COMMERCIAL TAXES,
MALAPPURAM.

BY GOVT.PLEADER SRI.BASANT BALAJI

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.A.No.747 OF 2007

Dated 22nd March, 2007

JUDGMENT

Koshy,J.

Appellant/petitioner was issued with an assessment order under Section 24 of the Kerala Value Added Tax Act. According to the appellant, the above order was passed in complete violation of the principles of natural justice and no reasons are also stated therein, and, therefore, he approached this court. Learned Single Judge directed the appellant to file an appeal as statutory remedy is provided and did not go into the merits of the contentions. Since the learned Single Judge did not admit the petition and did not exercise discretionary power in view of the effective alternate statutory remedy of filing an appeal, we are of the opinion that no grounds are made out for interference in the impugned judgment. But, we note that under Section 55 of the Kerala Value Added Tax Act, appeal can be filed before the Deputy Commissioner (Appeals) and with regard to the orders passed under Section 24, appellant need pay only the admitted amount of tax. Therefore, if appellant files an appeal with admitted amount of tax along with a stay petition for staying the full amount on or before 30.3.2007, no recovery proceedings shall

be taken till the stay petition is disposed of. With that rider, this writ appeal is disposed of.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

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